

REMARKS/ARGUMENTS

Upon careful and complete consideration of the Office Action dated April 6, 2005, applicant has amended the claims which, when considered in conjunction with the comments herein below, are deemed to place the present application into condition for allowance. Favorable reconsideration of this application, as amended, is respectfully solicited.

The Office Action rejected claims 43 and 112 under 35 U.S.C. §112, first paragraph, as failing to comply with the enablement requirement. Said rejection is based on the combination of claims 1 and 66 which recite that the gluten substitute is a solid aerated mass together with claims 43 and 112 which recite the heating is done by extrusion, as compared to the subject specification on page 11 which discloses the gum produced by an extruder forms a sticky liquid, not a solid mass. Claims 1 and 66 have been amended to delete reference to “a solid” aerated mass and now simply recite “an aerated mass” as originally claimed.

Based on the above-noted amendment to claims 1 and 66, it is respectfully submitted that the rejection of claims 43 and 112 is no longer valid and said rejection is respectfully requested to be withdrawn.

The Office Action next rejected claims 1, 5, 6-8, 9-13, 17-22, 26-28, 29, 33-37, 38-45, 66, 68-70, 74-77, 79-82, 86-90, 95-97 and 102-115 under 35 USC § 103(a) as allegedly unpatentable over U.S. Patent No. 4,798,733 to Kaneko et al. (hereinafter referred to as “Kaneko et al.”). It is further noted that claims 2-4, 14-16,


22-25, 30-32, 71-73, 83-85, 92-94 and 99-101 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims.

Specifically, the Examiner noted that "[t]here is no suggestion in Kaneko et al. to use the amounts of starch and water as claimed; thus, there is no suggestion to make the fat:starch and protein:starch ratios as claimed."

Accordingly, independent base claims 1 and 66 were amended to incorporate the subject matter of claims 2 and 71 (now canceled), i.e. wherein the second mixture comprises a starch present in the amount of between about 20 and 80% by weight of said mixture. As indicated by the Examiner, claims 1 and 66 now contain allowable subject matter. The remaining claims in the present application all ultimately depend from either one of these two claims.

In view of the above, it is respectfully submitted that all the claims in the application as presently amended contain patentable subject matter and a Notice of Allowance is earnestly solicited.

Respectfully submitted,


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